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96TH CONGRESS 1ST SESSION

H.R.5139

To amend the National Historic Preservation Act of 1966, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

August 2, 1979

Mr. Seiberling introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To amend the National Historic Preservation Act of 1966, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SHORT TITLE
- 4 Section 1. This Act may be cited as the "National
- 5 Historic Preservation Amendments of 1979".
- 6 AMENDMENTS TO NATIONAL HISTORIC PRESERVATION
- 7 ACT OF 1966
- 8 SEC. 2. (a)(1) The Act of October 15, 1966 (16 U.S.C.
- 9 470-470t) is amended by redesignating the first section

FINAL ACTION

thereof as section 2 and by inserting the following new section immediately before such section as so redesignated: "SHORT TITLE 3 "SECTION 1. This Act may be cited as the 'National 4 Historic Preservation Act'.". (2) Section 2 of such Act, as redesignated by subsection 6 (a) of this section, is amended by inserting the following immediately before "Sec. 2": "FINDINGS AND DECLARATIONS". 9 (b) Such Act is further amended by inserting the follow-10 ing immediately after section 2, as redesignated by subsection (a) of this Act: 12 "POLICY 13 14 "Sec. 3. The Congress, recognizing the importance of the existing elements of our national heritage to the mainte-16 nance and continuing development of human life and the 17 American society, declares that it is the duty and continuing 18 policy of the Federal Government, in cooperation with other 19 nations, the States, and local communities, and private orga-20 nizations and individuals— 21 "(1) to develop and use means and measures, including financial and technical assistance, for the pur-22 23 poses of fostering and promoting conditions under 24 which our modern society and our heritage can exist in productive harmony and can fulfill the social, eco-25

1	nomic, and other requirements of present and future
2	generations;
3	"(2) to provide leadership in the preservation and
4	conservation of the historic, architectural, archeologi-
5	cal, and cultural resources of the United States and of
6	the international community of nations;
7	"(3) to administer federally owned or controlled
8	historic and cultural resources in a spirit of steward-
9	ship and trusteeship for the benefit of present and
10	future generations;
11	"(4) to administer the national historic preserva-
12	tion program in partnership with the States and to
13	insure that Federal policies, plans, programs, activities,
14	and projects—
15	"(A) contribute to the preservation and con-
	servation of nonfederally owned historic and cul-
17	tural resources,
18	"(B) are coordinated with State, community,
19	and private activities to preserve and conserve
20	historic and cultural resources, and
21	"(C) contribute to the preservation of signifi-
22	cant historic and cultural resources of other na-
23	tions; and
24	"(5) to give priority to preservation activities
25	which further national goals for the revitalization of

1	urban areas, the conservation of agricultural areas, the
2	creation of local employment opportunities, and the
3	conservation of energy.".
4	(c) Titles I and II of such Act are amended to read as
5	follows:
6	"TITLE I—FEDERAL AND STATE PRESERVATION
7	PROGRAMS
8	"Subtitle A—National Register of Historic Places
9	"ESTABLISHMENT OF NATIONAL REGISTER
10	"Sec. 101. (a) The Administrator shall establish and
11	maintain a National Register of Historic Places to be com-
12	prised of districts, sites, buildings, structures, and objects de-
13	termined to be significant in American history, architecture,
14	archeology, and culture, at the national, State, or local level
15	in accordance with this subtitle. Such determination shall be
16	made pursuant to the criteria established by the Administr
17	tor under section 104.
18	"(b) No property may be included in the National Regis-
19	ter unless such property—
20	"(1) is determined in accordance with section
21	104(b) to be of national significance or in accordance
22	with section 104(c) to be of world heritage significance;
23	"(2) involves a direct or indirect public investment
24	within the meaning of section 104(d); or

1	"(3) is legally dedicated to preservation within the
2	meaning of section 104(e).
3	"INVENTORY OF HISTORIC RESOURCES; ELIGIBLE
4	PROPERTIES
5	"SEC. 102. (a) Not later than one year after the date or
6	which the Administrator is initially appointed, he shall, in
7	cooperation with the States, establish an inventory of historic
8	resources. Such inventory shall be comprised of properties
y	(set forth on a State-by-State basis) which may meet the cri-
10	teria of significance established by the Administrator under
11	section 104(a).
12	"(b) Properties included in the inventory of historic re-
13	sources which have been determined by the Administrator to
14	meet the criteria of significance set forth in section 104(a) but
15	which have not been determined by the Administrator to
S	meet the requirements of section 101(b) shall be designated
17	as eligible for inclusion on the National Register.
18	"(c) The inventory of historic resources shall be made
19	available to all Federal, State, and local government depart-
20	ments, agencies, and instrumentalities to facilitate their plan-
21	ning and other activities. The Administrator shall promulgate
22	regulations under which, notwithstanding any other authority
23	of law, information concerning the location of any property

24 on the inventory shall not be available to the public where

- 1 the disclosure to the public of such information would be
- 2 likely to endanger the property.
- 3 "PROCEDURE FOR INCLUSION IN NATIONAL REGISTER OR
- 4 INVENTORY
- 5 "Sec. 103. (a)(1) During the one-year period beginning
- 6 on the date of the enactment of the National Historic Preser-
- 7 vation Amendments of 1979, all properties included in the
- 8 National Register under prior authority of law shall be
- 9 deemed to be included in the National Register established
- 10 under section 101. Within such one-year period, the Admin-
- 11 istrator shall complete a review of all such properties (other
- 12 than properties which were designated as national historic
- 13 landmarks under such prior authority of law) and determine
- 14 which of such properties meet the requirements of subsection
- 15 (b) of section 101. Each such property which is determined
- 16 by the Administrator, within such one-year period, to meg
- 17 the requirements of such subsection (b) and each property
- 18 which was designated as a national historic landmark under
- 19 prior authority of law shall be included by the Administrator
- 20 in the National Register established under section 101.
- 21 "(2) Beginning one year after the date of the enactment
- 22 of the National Historic Preservation Amendments of 1979,
- 23 all properties which were included in the National Register
- 24 under prior authority of law and with respect to which no
- 25 determination under paragraph (1) has been made shall be

- 1 included on the inventory of historic resources and designated
- 2 as eligible properties.
- 3 "(b) Any State or local government which is carrying
- 4 out a program approved under part 2 of subtitle B or any
- 5 Federal agency may nominate a property which meets the
- 6 requirements of section 101(a) and paragraph (2) or (3) of
- 7 section 101(b) to the Administrator for inclusion in the Na-
- 8 tional Register of Historic Places. Any such State or local
- 9 government or any Federal agency may nominate a property
- 10 meeting the requirements of section 101(a) to the Adminis-
- 11 trator for inclusion in the National Register or for inclusion in
- 12 the inventory of historic resources as an eligible property (as
- 13 may be appropriate). Any property nominated under this sub-
- 14 section shall be included, as may be appropriate, in such reg-
- 15 ister or inventory on the date thirty days after receipt by the
- Administrator of the nomination unless the Administrator
 - 17 disapproves such nomination within such thirty-day period.
 - 18 "(c) The Administrator may accept a nomination from
 - 19 any person for inclusion of a property in the National Regis-
 - 20 ter or in the inventory of historic resources as an eligible
 - 21 property if such property is located in a State or political
 - 22 subdivision where there is no program approved under part 2
 - 23 of subtitle B. If the Administrator determines that such prop-
 - 24 erty meets the requirements of section 101 (a) and (b), he
 - 25 shall include the property in the National Register. If the

- 1 Administrator determines that such property meets the re-
- 2 quirements of section 101(a), but does not make a determina-
- 3 tion that such property meets the requirements of section
- 4 101(b), he shall include such property in the inventory of
- 5 historic resources as an eligible property.

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- 6 "(d) The Administrator shall include in the inventory of 7 historic resources—
- 6 "(1) all properties included in lists or inventories 9 of resources established or maintained under prior at 10 thority of law or under any other authority of law 11 which properties may meet the criteria of significance 12 established under section 104(a), but which have not 13 been professionally evaluated in accordance with an 14 approved State program; and
 - "(2) all properties which may meet the criteria of significance established under section 104(a) and which are proposed to him for inclusion in such inventory by any State or local government or by any other Federal agency.
- "(e) The Administrator may, at his discretion, on his 21 own motion or at the request of any person, include any 22 property on the inventory of historic resources and designate 23 such property as an eligible property if he determines that 24 such property meets the requirements of section 101(a), and 25 he may include such property on the National Register if he

1	determines that it meets the requirements of section 101 (a)
2	and (b).
3	"CRITERIA FOR PROPERTIES TO BE INCLUDED ON
4	REGISTER
5	"SEC. 104. (a) The Administrator shall, by rule, estab-
6	lish criteria for properties to be considered of significance in
7	American history, architecture, archeology, or culture.
8	"(b) For the purposes of section 101(b)(1), a property
J	shall be considered to be of national significance when-
10	"(1) the Congress so designates a property;
11	"(2) a property is included in the National Park
12	System as a historical unit; or
13	"(3) the Administrator determines that the prop-
14	erty meets criteria of national significance to be estab-
15	lished by him, by rule, under this paragraph.
16	"(c) For the purposes of section 101(b)(1) a property
17	shall be considered to be of world heritage significance when
18	it is included in the world heritage list maintained in accord-
19	ance with the terms of the Convention Concerning the Pro-
20	tection of the World Cultural and Natural Heritage.
21	"(d) For purposes of section 101(b)(2)—
22	"(1) the expenditure of any funds by a govern-
23	mental agency which directly or indirectly contributes
24	substantially to the preservation of any property, or

1	"(2) the application of section 2124 of the Inter-
2	nal Revenue Code of 1954 (or any provision of State
3	or local law having similar purposes, as determined by
4	the Administrator)
5	shall be treated as a public investment in such property.
6	"(e) For purposes of section 101(b)(3), a property shall
7	be treated as legally dedicated to preservation when-
8	"(1) an easement, or other property interest, re-
9	quiring preservation of the significant features of the
10	property for not less than thirty years is held by any
11	person (including any governmental entity) or is other-
12	wise legally binding on the owner of such property,
13	"(2) such property is in public ownership and
14	managed for preservation, or
15	"(3) any State or local law or ordinance provides
16	for the designation or preservation of such property.
17	"(f)(1) The Administrator shall promulgate interim regu-
18	lations to carry out this section not more than thirty days
19	after the date on which the Administrator is initially appoint-
20	ed and final regulations for such purposes not more than one
21	year after such date,
22	"(2) The Administrator shall undertake an examination
23	of the criteria promulgated under section 101(a)(1) under au-
24	thority of prior law to determine whether or not such criteria
25	should apply for purposes of subsection (a) or subsection

1	(b)(3) of this section. If the Administrator determines that
2	such criteria should apply for such purposes or that such cri-
3	teria require revision for such purposes, he shall promulgate
4	such criteria (including such revisions) under this section.
5	"Subtitle B—Financial Assistance
6	"Part 1—General Authorities
7	"FINANCIAL ASSISTANCE AUTHORITIES
8	"SEC. 111. The Administrator shall establish and ad-
9	minister in accordance with this title—
10	"(1) a program of matching grants-in-aid to States
11	for preservation programs that have been approved by
12	the Administrator in accordance with part 2 of this
13	subtitle;
14	"(2) a program under which grants-in-aid are
15	made by the Administrator to the National Trust for
16	Historic Preservation—
17	"(A) to assist in the acquisition, preservation,
18	rehabilitation, and maintenance of properties
19	owned by the Trust;
20	"(B) to carry out an emergency acquisition
21	program in accordance with section 3 of the Na-
22	tional Historic Preservation Amendments of 1979
23	for eligible properties on the inventory of historic
24	resources or for properties included in the Nation-

1	al Register which are threatened with imminent
2	damage or destruction; and
3	"(C) on a 50 per centum matching basis to
4	facilitate public participation in historic preserva-
5	tion in the United States; and
6	"(3) a program to make direct grants, loans, or
7	both under part 3 of this subtitle and a loan guarantee
8	program under such part 3.
9	"Part 2—State Programs
10	"GRANTS FOR APPROVED STATE PROGRAMS
11	"SEC. 112. (a) Upon the application of any State, the
12	Administrator is authorized to make grants to States to carry
13	out State programs which have been approved under this
14	section. No grant made under this section may be used to pay
15	more than 50 per centum of the costs of carrying out any
16	such State program. The remaining 50 per centum shall b
17	paid from non-Federal funds.
18	"(b) Any State may submit to the Administrator a pro-
19	gram which provides appropriate governmental mechanisms
20	for the identification, evaluation, protection, and preservation
21	of districts, sites, buildings, structures, and objects within the
22	State which are significant in American history, architecture,
23	archeology, and culture. Such a State program shall be ap-
24	proved by the Administrator unless he determines that the
25	program does not meet the requirements of section 113 and

- 1 the other requirements of this part or that the State is not
- 2 properly implementing such program. Any such program
- 3 which has been disapproved by the Administrator may be
- 4 approved by him upon his subsequent determination that the
- 5 program has been revised to meet the requirements of this
- 6 Act.
- 7 "(c)(1) Not less than every four years after the approval
- 8 of any such State program, the Administrator shall evaluate
- 9 such program to make a determination as to whether or not
- 10 it is in compliance with the requirements of this Act.
- 11 "(2) The Administrator shall conduct periodic fiscal
- 12 audits of State programs approved under this part. Such
- 13 audits shall include an evaluation of the recipient's (A) ac-
- 14 counting and control systems, and (B) stewardship of all
- 15 grants received under this part. Audits carried out pursuant
- 6 to this subsection shall be audits of the recipient, and shall
 - 17 not be audits of individual grants or programs.
 - 18 "(3) State and local governments may assume the re-
 - 19 sponsibility for financial and compliance audits of State and
 - 20 local governments and other persons or organizations receiv-
 - 21 ing Federal grants under this part and their subgrantees. The
 - 22 audits shall be made by independent auditors in accordance
- 23 with generally accepted auditing standards and shall include
- 24 an opinion as to the extent to which the accounting policies

- 1 and systems follow generally accepted accounting principles
- 2 and standards.
- 3 "(4) The Federal Government shall be responsible for
- 4 audits which deal with economy, efficiency, and program re-
- 5 sults, and for assuring that financial and compliance audits
- 6 conducted by State and local government auditors or inde-
- 7 pendent auditors meet generally accepted auditing standards.
- 8 Nothing in this section shall preclude the Federal Govern
- 9 ment from contracting with independent auditors to perform
- 10 economy, efficiency, or program results audits; except that
- 11 the Federal Government shall be responsible for assuring
- 12 that such audits meet generally accepted auditing standards.
- 13 "(5) State and local governments receiving a grant shall
- 14 set forth in writing the criteria by which they judge whether
- 15 they are meeting program requirements. Such criteria shall
- 16 be based on the legislation (including committee report
- 17 hearings, and debates), and the implementing regulations of
- 18 the Administrator and shall be available for use by those
- 19 auditing the recipient.
- 20 "(6) The Administrator shall reimburse State and local
- 21 governments for actual expenses incurred in conducting
- 22 audits on behalf of the Federal Government.

1 "REQUIREMENTS FOR APPROVAL OF STATE	1	"REQUIREMENTS	FOR	APPROVAL	OF	STATE	PROGRAMS
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- 2 "SEC. 113. (a) A State program submitted to the
- 3 Administrator under section 112 shall be approved by the
- 4 Administrator if he determines that the program—

sary for such purposes;

- "(1) provides for the designation by the Governor
 of a 'State historic preservation officer' to administer
 such program and for the appointment by such officer
 of such professionally qualified staff as may be neces-
 - "(2) provides for the transfer, in accordance with section 114, of not less than 50 per centum of the grants received by the State under this part to political subdivisions of the State certified by the State historic preservation officer as having preservation programs that will carry out the purposes of this Act within such political subdivisions;
 - "(3) provides a variety of financial mechanisms (which may include loans, loan guarantees, revolving fund accounts, interest and rent subsidies, and tax incentives) to be available for the development of properties which are on the National Register or which are in the inventory of historic resources and designated as eligible properties, or any properties used in connection therewith, in order to assure their preservation for the public benefit;

1	"(4) provides mechanisms for the acquisition, ac-
2	ceptance of donations, and dedication of fee title (or
3	less than fee interest) in any property referred to in
4	paragraph (3);
5	"(5) provides relocation assistance to enable per-
6	sons or businesses within any historic districts affected
7	by the program to relocate within the historic district;
8	"(6) gives a priority in carrying out projects to
9	those which will conserve energy, are labor intensive,
10	or will further urban revitalization or agricultural con-
11	servation;
12	"(7) provides a mechanism for the identification
13	and evaluation of historic properties within the State
14	and for the protection of such properties; and
15	"(8) otherwise carries out the purposes of this Act
16	in such State.
17	"(b) No State program may be approved under this part,
18	and no program of a political subdivision may be certified
19	under this part, unless such program provides that—
20	"(1) grants made under the program for the phys-
21	ical repair or improvement of any property may be
22	made—
23	"(A) only for properties which are included
24	on the National Register or in the inventory of

1	historic resources and designated as eligible prop-
2	erties; and
3	"(B) only if the grantee has agreed to
4	assume, after completion of the project, the basic
5	cost of the continued maintenance, repair, and ad-
6	ministration of the property; and
7	"(2) no grant made in any one fiscal year for the
8	preservation of any single property or of any single
9	building or structure within a historic district may
10	exceed \$50,000.
11	In the case of a State program, no more than 10 per centum
12	of any grant made to such State under this part for any one
13	year may be used for carrying out a comprehensive statewide
14	survey of historic resources, and no more than 15 per centum
15	of any such grant may be used for improvement of govern-
16	ment buildings used for governmental purposes.
17	"TRANSFER OF FUNDS TO STATE AND LOCAL
18	GOVERNMENTS
19	"Sec. 114. (a) Of the funds required to be transferred
20	by a State to political subdivisions under paragraph (2) of
21	section 113(a)—
22	"(1) 30 per centum shall be allocated equally
23	among all political subdivisions of the State which have
24	programs certified by the State (hereinafter in this Act
25	referred to as 'certified political subdivisions') to be
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1	adequate to carry out the purposes of this Act in such
2	political subdivisions,
3	"(2) 40 per centum shall be allocated among the
4	certified political subdivisions within such State on the
5	basis of population, and
6	"(3) 30 per centum shall be allocated among such
7	certified political subdivisions on the basis of need as
8	determined by the State historic preservation officer.
9	"(b) In the case of any State in which not more than
10	five political subdivisions are certified political subdivisions
11	under paragraph (1) of subsection (a), the requirements of
12	section 113(a)(2) and subsection (a) of this section shall not
13	apply, and the State shall submit a recommended allocation
14	to the Administrator for his approval. Unless the Administra-
15	tor determines that one or more of the political subdivisions
16	to which such funds are allocated will receive a dispropor-
17	tionate share of the funds available to the State, the Adminis-
18	trator shall approve such allocation.
19	"PROGRAMS OF POLITICAL SUBDIVISIONS
20	"SEC. 115. In the case of any State which does not
21	have a State program approved under this part within two
22	years after the date of the enactment of the National Historic
23	Preservation Amendments of 1979, one or more political
24	subdivisions in such State may apply to the Administrator for

25 certification of a preservation program to be carried out

under this part in such political subdivisions. Upon such an application, the Administrator may certify one or more of such programs if he determines that the program or programs will carry out this subtitle in the political subdivision or subdivisors concerned in accordance with the purposes of this Act. Following such certification, the Administrator may allocate such amounts as would otherwise be available to such State for a State program under this part in accordance with section 114 (a) and (b) to the certified political subdivision or subdivisions in such State. The Administrator shall insure 11 that no allocation under this section will result in any political subdivision receiving a disproportionate share of the funds 12 available; and for such purposes he may limit the allocation 13 to any single political subdivision and reallocate any remain-

16 "PROGRAMS UNDER PRIOR LAW

ing funds among the States on the basis of need.

"Sec. 116. Any State historic preservation program in 18 effect under prior authority of law, shall be treated as an 19 approved State program for purposes of this subtitle until the 20 earlier of—

21 "(1) the date on which the Administrator ap-22 proves a program submitted by the State under this 23 subtitle, or

1	"(2) two years after the date of the enactment of
2	the National Historic Preservation Amendments of
3	1979.
4	"Part 3—Federal Assistance
5	"CONDITIONS FOR GRANTS AND LOANS
6	"SEC. 121. (a) Grants, loans, or both may be made by
7	the Administrator for the full cost (or any part of the cost) of
8	preservation of properties of national or world heritage sig-
9	nificance, for demonstration projects to preserve any eligible
10	property or property on the National Register, and for the
11	training and development of skilled labor in trades and crafts
12	relating to historic preservation. Grants or loans or both may
13	also be made under this section to Indian tribes for the pres-
14	ervation of historic properties. No grant may be made under
15	this section unless the Administrator determines that the
16	project could not be carried out in as effective a manne
17	through the use of a direct or guaranteed loan under this part
18	or through a State program under part 2.
19	"(b)(1) Any loan made by the Administrator under this
20	section shall be at an interest rate determined by the Secre-
21	tary of the Treasury taking into consideration the current
22	average market yield on outstanding marketable obligations
23	of the United States with periods of maturity comparable to
24	the average maturities of such loans, adjusted to the nearest
25	one-eighth of 1 per centum, plus additional charge, if any,

- 1 toward covering other costs of the program as the Adminis-
- 2 trator may determine to be consistent with its purpose. The
- 3 Administrator is authorized to provide an interest subsidy for
- 4 any such loan by reducing the interest rate established with
- 5 respect to such loan, except that in no event shall such re-
- 6 duction of interest reduce the effective rate of interest pay-
- 7 able more than 7 percentage points. In no event shall the
- 8 rate payable be reduced to a rate lower than 3 per centum
- 9 per year.
- 10 "(2) No loan under this part may exceed 90 per centum
- 11 of the aggregate cost to the applicant, excluding all other
- 12 Federal aid, of the project concerned.
- 13 "(c) Loan assistance under this section shall be on the
- 14 condition that not less than 10 per centum of the aggregate
- 15 cost of the project concerned is to be supplied as equity capi-
- 16 tal, as no-cash contribution to the project acceptable to the
 - 17 Administrator, or as a loan repayable in no shorter period of
 - 18 time and at no faster an amortization rate than the loan ex-
 - 19 tended under this section is being repaid and if such a loan is
 - 20 secured, its security shall be subordinated to the lien or liens
 - 21 securing the loan extended under this section.
 - 22 "(d) During any time that any loan made under this
- 23 section is outstanding, the Administrator is authorized, under
- 24 regulations prescribed by him, to take any and all actions

- 1 determined to be necessary or desirable in dealing with, or
- 2 realizing on, loans.
- 3 "(e) A direct loan from the Administrator may be made
- 4 under this part only if he determines the project could not be
- 5 carried out in as effective a manner by a guaranteed loan
- 6 under this part.
- 7 "(f) Upon application of the obligor and upon a finding
- 8 of need for short-term financial support for the project, the
- 9 Administrator may postpone for a specified period the due
- 10 date of any payment of principal and interest on a loan made
- 11 under this section if he determines that such a postponement
- 12 will carry out the purposes of this part and will not jeapor-
- 13 dize the interests of the United States.
- 14 "LOAN GUARANTEES
- "Sec. 122. (a) Upon the application of a private lender,
- 16 the Administrator is authorized to guarantee the payment
- 17 the principal amount of, and interest on, loans (including
- 18 mortgage loans) made by such private lender to finance any
- 19 project for the preservation of a property which is on the
- 20 National Register or in the inventory of historic resources
- 21 and designated as an eligible property. Such guarantee may
- 22 be for not more than 90 per centum of such loan, including
- 23 principal and interest, and no such guarantee shall at any
- 24 time exceed the 90 per centum of the amount of the out-

- 1 standing unpaid balance of such loan including reasonable
- 2 costs as determined by the Administrator.
- 3 "(b) The Administrator shall not guarantee any loan
- 4 under this section if—
- 5 "(1) the rate of interest on either the portion to
- 6 be guaranteed or the portion not to be guaranteed is
- 7 determined by the Administrator to be excessive; or
- 8 "(2) the loan is payable to any governmental
- 9 entity.
- 10 "(c) Guarantees under this section shall only be made
- 11 for projects which have been approved by the State historic
- 12 preservation officer designated pursuant to section 113(a)(1),
- 13 or, in the case of a State which does not have a program
- 14 approved under part 2, by the chief elected official (or such
- 15 official's designee) of the political subdivision in which the
- 16 project will be located. The Administrator may waive the
 - 17 requirement for such approval in appropriate instances.
 - 18 "(d) The full faith and credit of the United States is
 - 19 pledged to the payment of all guarantees made under this
 - 20 section with respect to both principal and interest, including
 - 21 interest as provided for in the guarantee accruing between
 - 22 the date of default under a guaranteed obligation and the
 - 23 payment in full of the guarantee.
 - 24 "(e) The Administrator may assess appropriate and rea-
 - 25 sonable fees and charges to guarantee loans.

- 1 "(f) The Administrator shall set, by rule, dollar limita-
- 2 tions on the aggregate amount of loans to be guaranteed
- 3 under this subtitle, but in no event shall such aggregate
- 4 amount exceed five times the amount authorized but unap-
- 5 propriated for the National Historic Preservation Fund.
- 6 "CONDITIONS FOR LOANS AND LOAN GUARANTEES
- 7 "Sec. 123. (a) No loans shall be made or guaranteed
- 8 under this part unless the Administrator determines through
- 9 an appropriate method that there is reasonable assurance of
- 10 repayment.
- 11 "(b) The Administrator shall consult with the Secretary
- 12 of the Treasury regarding the interest rate, timing, and other
- 13 terms and conditions of loans and guaranteed obligations
- 14 under this title. The Secretary of the Treasury may waive
- 15 the requirement contained in the preceding sentence with re-
- 16 spect to any loan or guaranteed obligation when he deter
- 17 mines that such obligation does not have a significant impact
- 18 on the market for government and government-guaranteed
- 19 securities.
- 20 "(c) The Secretary of the Treasury is authorized to pur-
- 21 chase loans and loan guarantees made under this title
- 22 through the Federal Financing Bank. This authority may be
- 23 exercised only if the Administrator determines that an ade-
- 24 quate secondary market for such obligations is not available
- 25 in the private sector.

- 1 "(d) No loan or guarantee, including renewals or exten-
- 2 sions thereof, may be made under this part for a period ex-
- 3 ceeding the lesser of forty years or the expected life of the
- 4 asset financed. The foregoing restrictions on maturities shall
- 5 not apply to securities or obligations received by the Admin-
- 6 istrator as a claimant in bankruptcy or equitable reorganiza-
- 7 tion or as a creditor in other proceedings attendant upon in-
- 8 solvency of the obligor.
- 9 "(e) Any guarantee or interest subsidy agreement shall
- 10 be conclusive evidence of the eligibility of the obligation for
- 11 such guarantee or interest subsidy, and the validity of any
- 12 guarantee or interest subsidy agreement shall be incon-
- 13 testable.
- 14 "(f) To the extent the Administrator finds such action
- 15 necessary to encourage financial participation in a particular
- 16 project by other lenders and investors, and except as other-
- 17 wise provided in section 121, any Federal financial assistance
- 18 extended under this title may be made repayable after other
- 19 loans made in connection with such project have been repaid
- 20 in full, and the security, if any, for such Federal financial
- 21 assistance may be subordinate and inferior to the lien or liens
- 22 securing other loans made in connection with the same
- 23 project.
- 24 "(g) For any loan made or obligation guaranteed under
- 25 the authority of this part, the Administrator is authorized to

- 1 enter into arrangements for the servicing, including foreclo-
- 2 sure, of such loans or evidences of indebtedness on reason-
- 3 able terms that protect the financial interests of the United
- 4 States.
- 5 "(h) The Administrator is authorized to pay the princi-
- 6 pal and interest on loans guaranteed under the authority of
- 7 section 122, and there is hereby authorized to be appropri-
- 8 ated such amounts as may be necessary for the repayment of
- 9 principal and interest on loans in default and guaranteed pur-
- 10 suant to section 122, to remain available until expended.
- 11 "(i) Notwithstanding any other provision of law, any
 - 2 loan or guaranteed obligation under this part shall be treated
- 13 as non-Federal funds for the purposes of satisfying any re-
- 14 quirement of any other provision of law under which Federal
- 15 funds to be used for any project or activity are conditioned
- 16 upon the use of non-Federal funds by the recipient for pay
- 17 ment of any portion of the costs of such project or activity.
- 18 "PRIVILEGED OR CONFIDENTIAL INFORMATION
- "Sec. 124. To the extent the Administrator deems it
- 20 appropriate and consistent with the principles of section
- 21 552(b)(4) and section 552(c)(4) of title 5, United States Code.
- 22 that portion of any record, material, or data received by the
- 23 Administrator in connection with any application for financial
- 24 assistance under this part which contains trade secrets or
- 25 commercial or financial information regarding the operation

1	or competitive position of any business shall be deemed to be
2	'privileged or confidential' within the meaning of those sec-
3	tions.
4	"TITLE II—FEDERAL AUTHORITIES AND
5	RESPONSIBILITIES
6	"Subtitle A-National Historic Preservation Agency
7	"ESTABLISHMENT OF AGENCY
8	"SEC. 201. There is hereby established as an independ-
9	ent agency of the United States a Historic Preservation
10	Agency to be under the direction of an Administrator for His-
11	toric Preservation. The Administrator shall be appointed by
12	the President, by and with the advice and consent of the
13	Senate, and shall be compensated at the rate provided for
14	level III of the Executive Schedule under section 5315 of
15	title 5 of the United States Code.
16	"ADVISORY COUNCIL ON HISTORIC PRESERVATION
17	"Sec. 202. (a) The President shall establish an Adviso-
18	ry Council on Historic Preservation (hereinafter referred to in
19	this Act as the 'Council') to advise the Administrator respect-
20	ing his responsibilities under this Act, to review the applica-
21	tion of section 247 and assist the Administrator in applying
22	the provisions of such section under regulations established
23	by the Administrator, and to advise the President and the
24	Congress on historic preservation matters. The Council shall

25 be composed of the following members:

1	"(1) the Secretary of the Interior, the Architect of
2	the Capitol;
3	"(2) the heads of four agencies of the United
4	States (other than the Department of the Interior) the
5	activities of which affect historic preservation, appoint-
6	ed by the President;
7	"(3) a representative of the National Conference
8	of State Historic Preservation Officers and five profes
9	sionals in the fields of history, architecture, arche-
10	ology, urban planning, or related disciplines, appointed
11	by the President from among recommendations of or-
12	ganizations representing such professions and from
13	among recommendations made by national historic
14	preservation organizations;
15	"(4) three State Governors or mayors, appointed
16	by the President; and
17	"(5) three at large members of the general public,
18	appointed by the President.
19	"(b) Each member of the Council appointed under para-
20	graph (1) or (2) of subsection (a) may designate another offi-
21	cer of his agency to serve on the Council in his stead, except
22	that no such officer who is below the rank of an Assistant
23	Secretary may be so designated.
24	"(c) Each member of the Council appointed under para-
25	graph (3), (4), or (5) of subsection (a) shall serve for a term of

- 1 four years from the expiration of his predecessor's term,
- 2 except that a member first appointed under any such para-
- 3 graph shall be appointed not later than one hundred and
- 4 eighty days after the date of the enactment of the National
- 5 Historic Preservation Amendments of 1979 and shall serve
- 6 for a term of from two to four years, as designated by the
- 7 President at the time of his appointment, in such manner that
- 8 terms of not more than four of such members will expire in
- 9 any one year.
- 10 "(d) A vacancy in the Council shall not affect its powers
- 11 but shall be filled, not later than thirty days after such vacan-
- 12 cy commences, in the same manner as the original appoint-
- 13 ment and for the balance of the unexpired term, if any.
- 14 "(e) The Chairman and Vice Chairman of the Council
- 15 shall be elected from among the members of the Council ap-
- 16 pointed under paragraph (3), (4), or (5) of subsection (a), and
- 17 shall serve for terms of two years.
- 18 "(f) Ten members of the Council shall constitute a
- 19 quorum.
- 20 "(g) The members of the Council specified in paragraph
- 21 (1) or (2) of subsection (a) shall serve without additional com-
- 22 pensation. The other members of the Council shall receive
- 23 \$100 per diem when engaged in the performance of the
- 24 duties of the Council. While away from their homes or regu-
- 25 lar places of business in the performance of services for the

- 1 Council all members of the Council shall be allowed travel
- 2 expenses, including per diem in lieu of subsistence, in the
- 3 same manner as persons employed intermittently in Govern-
- 4 ment service are allowed expenses under section 5703 of title
- 5 5 of the United States Code.
- 6 "(h) The Council shall meet not less than twice a year.
- 7 "(i) Each member of the Council specified in paragraph
- 8 (1) or (2) of subsection (a) shall provide to the Council (with
- 9 or without reimbursement as may be agreed upon by the
- 10 Chairman and such member) such funds, personnel, facilities,
- 11 moneys, and services under their jurisdiction and control as
- 12 may be needed by the Council to carry out its duties, to the
- 13 extent that such funds, personnel, facilities, and services are
- 14 requested by the Council and are otherwise available for that
- 15 purpose. To the extent of available appropriations, the Coun-
- 16 cil may obtain, by purchase, rental, donation, or otherwise,
- 17 such additional property, facilities, moneys, and services as
- 18 may be needed to carry out its duties.
- 19 "(j) The Advisory Council on Historic Preservation es-
- 20 tablished under prior authority of law shall continue in exist-
- 21 ence and shall be authorized to carry out its functions under
- 22 such prior authority of law until the earlier of-
- 23 "(1) the date one hundred and eighty days after
- 24 the date of the enactment of the Historic Preservation
- 25 Amendments of 1979, or

- 1 "(2) the date on which the Administrator of His-
- 2 toric Preservation is appointed.
- 3 Upon the date on which the Administrator for Historic Pres-
- 4 ervation is appointed pursuant to this Act, all references in
- 5 law to the Advisory Council on Historic Preservation shall
- 6 be treated as references to such Administrator.

7 "LEGISLATIVE BYPASS

8 "Sec. 203. Whenever the Council transmits any legis-

lative recommendations, or testimony, or comments on legis-

10 lation to the President or the Office of Management and

11 Budget, it shall concurrently transmit copies thereof to the

12 Committee on Interior and Insular Affairs of the United

13 States House of Representatives and the Committee on

14 Energy and Natural Resources of the United States Senate.

15 No officer or agency of the United States shall have any

16 authority to require the Council to submit its legislative rec-

17 ommendations, or testimony, or comments on legislation to

18 any officer or agency of the United States for approval, com-

19 ments, or review, prior to the submission of such recommen-

20 dations, testimony, or comments to the Congress. In in-

21 stances in which the Council voluntarily seeks to obtain the

22 comments or review of any officer or agency of the United

23 States, the Council shall include a description of such actions

24 in its legislative recommendations, testimony, or comments

25 on legislation which it transmits to the Congress.

1	"DUTIES OF ADMINISTRATOR
2	"SEC. 204. (a) The Administrator shall—
3	"(1) advise the President and the Congress on
4	matters relating to historic preservation; coordinate ac-
5	tivities of Federal, State, and local agencies and pri-
6	vate institutions and individuals relating to historic
7	preservation; and disseminate information pertaining to
8	such activities;
9	"(2) encourage, in cooperation with the National
10	Trust for Historic Preservation and appropriate private
11	agencies, public interest and participation in historic
12	preservation;
13	"(3) conduct studies in such areas as the ade-
14	quacy of legislative and administrative statutes and
15	regulations pertaining to historic preservation activities
16	of States and local governments and the effects of tax
17	policies at all levels of government on historic preser-
18	vation;
19	"(4) assist State and local governments in drafting
20	legislation relating to historic preservation; and
21	"(5) provide, in cooperation with appropriate
22	public and private agencies and institutions, training
23	and education in the field of historic preservation.
24	"(b) The Administrator shall submit annually a compre-
25	hensive report of his activities and the results of his studies to

- 1 the President and the Congress and shall from time to time
- 2 submit such additional and special reports as he deems advis-
- 3 able. Each such annual report shall propose such legislative
- 4 enactments and other actions as, in the judgment of the Ad-
- 5 ministrator, are necessary and appropriate to carry out his
- 6 recommendations, and shall provide the Administrator's as-
- 7 sessment of current and emerging problems in the field of
- 8 historic preservation and an evaluation of the effectiveness of
- 9 the programs of Federal agencies, State and local govern-
- 10 ments, and the private sector in carrying out the purposes of
- 11 this Act.
- 12 "EMPLOYEES OF ADMINISTRATOR
- 13 "Sec. 205. (a) The Administrator shall have a General
- 14 Counsel who shall be appointed by him. The General Coun-
- 15 sel shall report directly to the Administrator and shall serve
- 16 as legal advisor to the Administrator and to the Council. The
- 17 Administrator shall appoint such other attorneys as may be
- 18 necessary to assist the General Counsel, represent the Ad-
- 19 ministrator or the Council in courts of law whenever appro-
- 20 priate, assist the Department of Justice in handling litigation
- 21 concerning the Administrator or the Council in courts of law.
- 22 and perform such other legal duties and functions as the Ad-
- 23 ministrator may direct.

- 1 "(b) The Administrator shall have power to appoint and
- 2 fix the compensation of such personnel as may be necessary
- 3 to carry out his duties.
- 4 "(c) The Administrator is authorized to procure expert
- 5 and consultant services in accordance with the provisions of
- 6 section 3109 of title 5, United States Code.
- 7 "AGENCY DATA
- 8 "Sec. 206. The Administrator is authorized to secure
- 9 directly from any department, bureau, agency, board, com-
- 10 mission, office, independent establishment or instrumentality
- 11 of the executive branch of the Federal Government informa-
- 12 tion, suggestions, estimates, and statistics for the purpose of
- 13 this title; and each such department, bureau, agency, board,
- 14 commission, office, independent establishment or instrumen-
- 15 tality is authorized to furnish such information, suggestions,
- 16 estimates, and statistics to the extent permitted by law and
- 17 within available funds.
- 18 "RULES AND REGULATIONS
- 19 "Sec. 207. The Administrator is authorized to establish
- 20 such criteria, guidelines, and standards as are necessary to be
- 21 applied by Federal agencies, States, their political subdivi-
- 22 sions, and other entities in the implementation of this Act,
- 23 and to establish such rules and regulations as are necessary
- 24 to carry out the purposes and provisions of this Act.

1	"Subtitle B—Education and Training
2	"EDUCATION AND TRAINING
3	"Sec. 211. (a) The Administrator shall-
4	"(1) develop and make available to Federal
5	agencies, State and local governments, private organi-
6	zations and individuals, and other nations and interna-
7	tional organizations pursuant to the World Heritage
8	Convention, training in, and information concerning,
9	administrative, legal, and professional methods and
10	techniques for the preservation, rehabilitation, restora-
11	tion, and maintenance of historic properties;
12	"(2) advise on and provide or arrange for techni-
13	cal assistance to, Federal departments and agencies,
14	State and local governments, private organizations and
15	individuals, and other nations and international organi-
16	zations in furtherance of the World Heritage Conven-
17	tion, in the identification, evaluation, preservation
18	(including maintenance, rehabilitation, adaptive use,
19	and restoration), and protection of historic properties;
20	and
21	"(3) in cooperation with the Secretary of the Inte-
22	rior and other appropriate organizations, establish a
23	comprehensive education and training program for Fed-
24	eral, State, and local officials who are involved in
25	historic preservation that is designed to further the

- education and training of such officials with respect to
- 2 the administration of programs for historic preserva-
- 3 tion.
- 4 "(b) The Administrator, in cooperation with the Na-
- 5 tional Trust for Historic Preservation and other appropriate
- 6 organizations, shall undertake a continuing program to in-
- 7 crease the awareness of historic resources and their preserva-
- 8 tion among the student population of the United States.
- 9 "(c) The Administrator, in cooperation with the Build-
- 10 ing Arts Foundation established under subtitle C of title III
- 11 and the Secretary of Labor, shall establish a program for the
- 12 training and development of skilled labor in trades and crafts
- 13 relating to historic preservation.
- 14 "Subtitle C—Coordination of Federal Activities
- 15 "REVIEW OF FEDERAL POLICIES
- 16 "Sec. 221. The Administrator shall review the policies
- 17 and programs of Federal agencies which are required to be
- 18 submitted to the Administrator under section 250 and recom-
- 19 mend to such agencies methods for improving the effective
- 20 coordination and consistency of such policies and programs
- 21 with the purposes of this Act and the Federal and State pro-
- 22 grams carried out under this Act.

1	"GUIDELINES FOR ARCHEOLOGY
2	"SEC. 222. (a) Within ninety days after the date of the
3	appointment of the Administrator, the Administrator shall
4	promulgate guidelines for—
5	"(1) the identification of historic properties re-
6	quired under section 247;
7	"(2) archeological and historical data recovery
8	that is to be carried out pursuant to a mitigation pro-
9	gram developed after satisfaction of a Federal agency's
10	responsibilities under section 247 and under the au-
11	thority of Public Law 93-291; and
12	"(3) the treatment of archeological and historical
13	data recovered pursuant to a mitigation program
14	funded or sanctioned by a Federal agency.
15	"(b)(1) The guidelines under subsection (a)(1) shall—
16	"(A) take into account the magnitude of proposed
17	undertakings and any potential adverse effects on his-
18	toric properties,
19	"(B) provide a reasonable survey standard in rela-
20	tion to the potential magnitude of the adverse effect,
21	and
22	"(C) take into account planning stages of catego-
23	ries of undertakings.
24	The guidelines shall provide standards permitting agencies to
25	fulfill their survey and identification responsibilities by having

- 1 applicants for Federal assistance or licenses undertake the
- 2 actual identification work.
- 3 "(2) The guidelines under subsection (a)(2) shall estab-
- 4 lish mechanisms to foster mitigation that is cost effective and
- 5 will result in the recovery of information that will further
- 6 knowledge of history or prehistory.
- 7 "(3) The guidelines under subsection (a)(3) shall apply
- 8 to all Federal and federally assisted mitigation activities and
- 9 shall provide standards for the curation of artifacts as well as
- 10 the disposal of artifacts by the Federal Government. In the
- 11 event the Federal Government disposes of any archeological
- 12 artifacts, the proceeds, if any, shall be deposited in the
- 13 United States Treasury in the Administrator's account under
- 14 Public Law 93-291 and shall be available for expenditure in
- 15 accordance with that Act without further appropriation or
- 16 fiscal year limitation.
- 17 "(c) Within ninety days after the Administrator estab-
- 18 lishes the guidelines required under subsection (a), each Fed-
- 19 eral agency shall submit to the Administrator proposed regu-
- 20 lations, standards, or procedures, as appropriate, to establish
- 21 the requirements that will govern the agency's program ac-
- 22 tivities under the Administrator's guidelines. Within thirty
- 23 days following such submission, the Administrator shall ap-
- 24 prove, in whole or in part, agency submissions that he deter-
- 25 mines meet the requirements of his guidelines. The Adminis-

- 1 trator may issue interim standards to be followed by any
- 2 agency that does not promulgate approved regulations, pro-
- 3 cedures, or standards for its program activities within one
- 4 hundred and twenty days after the initial submission to the
- 5 Administrator.
- 6 "(d)(1) With respect to the agency regulations, proce-
- 7 dures or standards promulgated pursuant to subsection (a)(2),
- 8 each agency shall provide a process for the Administrator to
- 9 review and approve all data recovery plans which involve the
- 10 expenditure of more than \$100,000. No mitigation plan
- 11 which involves the expenditure of more than \$100,000 may
- 12 be undertaken by any agency without the approval of the
- 13 Administrator.
- 14 "(2) The Administrator shall review agency submissions
- 15 under this subsection within thirty days. The Administrator
- 16 may establish panels of experts to assist in the evaluation of
- 17 mitigation proposals. The Administrator may establish a limit
- 18 on the amount of Federal funds that may be spent on archeo-
- 19 logical data recovery for any single project to which this sub-
- 20 section applies.
- 21 "FEDERAL LAND MANAGEMENT STANDARDS
- 22 "Sec. 223. Within one year after the date on which the
- 23 Administrator is initially appointed, he shall establish, jointly
- 24 with the Secretaries of the Interior, Agriculture, and De-
- 25 fense, and the Administrator of the General Services Admin-

- 1 istration, standards for the management and preservation of
- 2 federally owned historic properties. Following final promul-
- 3 gation of such standards, all agencies shall comply with such
- 4 standards with respect to all such properties which are in-
- 5 cluded in the National Register.
- 6 "TRANSFEREES OF FEDERAL PROPERTY
- 7 "Sec. 224. The Administrator shall review and approve
- 8 the plans of transferees of surplus federally owned properties
- 9 which are eligible properties or properties on the National
- 10 Register to ensure that the historical, architectural, archeo-
- 11 logical, or cultural significance will be preserved in the reha-
- 12 bilitation, restoration, improvement, adaptive use, mainte-
- 13 nance, and repair of such properties.
- 14 "COORDINATION WITH OTHER FEDERAL PROGRAMS
- 15 "Sec. 225. (a) All Federal agencies administering any
- 16 program—
- 17 "(1) under which any Federal assistance is pro-
- vided to any State or local government or to any other
- 19 person or entity, or
- 20 "(2) under which any Federal license, permit, or
- 21 other approval is required
- 22 shall coordinate such program with the purposes of this Act
- 23 and give a priority in carrying out such program to projects
- 24 which will further the purposes of this Act.

1	"(b) Not later than one hundred and eighty days after
2	the date on which an Administrator is initially appointed
3	under this Act, or one hundred and eighty days after the date
4	on which a program referred to in subsection (a)(1) is estab-
5	lished in the case of a program established after the date of
6	such appointment, each agency administering such program
7	shall submit to the Administrator a proposal for carrying out
8	such program under which, notwithstanding any other provi-
9	sion of law, the assistance to projects that will further the
10	preservation of National Register or eligible properties and
11	are entitled to priority under subsection (a)(1) shall be in-
12	creased above the assistance which would otherwise be avail-
13	able.
13 14	
14 15	"(c) Each agency required to submit a proposal under
14 15 16	"(c) Each agency required to submit a proposal under subsection (b) and each agency administering a program ad-
14 15 16 17	"(c) Each agency required to submit a proposal under subsection (b) and each agency administering a program addressed in subsection (a)(2) shall, not later than one hundred
14 15 16 17 18	"(c) Each agency required to submit a proposal under subsection (b) and each agency administering a program addressed in subsection (a)(2) shall, not later than one hundred and eighty days after the date on which the Administrator is
14 15 16 17 18 19	"(c) Each agency required to submit a proposal under subsection (b) and each agency administering a program addressed in subsection (a)(2) shall, not later than one hundred and eighty days after the date on which the Administrator is appointed, submit a proposal under which, notwithstanding
14 15 16 17 18 19	"(c) Each agency required to submit a proposal under subsection (b) and each agency administering a program addressed in subsection (a)(2) shall, not later than one hundred and eighty days after the date on which the Administrator is appointed, submit a proposal under which, notwithstanding any other provision of law, the assistance or permission pro-
14 15 16 17 18 19 20	"(c) Each agency required to submit a proposal under subsection (b) and each agency administering a program addressed in subsection (a)(2) shall, not later than one hundred and eighty days after the date on which the Administrator is appointed, submit a proposal under which, notwithstanding any other provision of law, the assistance or permission provided under such program for any project is—
14 15 16 17 18 19 20 21	"(c) Each agency required to submit a proposal under subsection (b) and each agency administering a program addressed in subsection (a)(2) shall, not later than one hundred and eighty days after the date on which the Administrator is appointed, submit a proposal under which, notwithstanding any other provision of law, the assistance or permission provided under such program for any project is— "(1) reduced by not less than 25 per centum

- 1 in any case in which it is determined that the project may
- 2 have been entitled to a priority under subsection (a) but for
- 3 action involving demolition, destruction, or damage to an eli-
- 4 gible property or property which is on the National Register
- 5 and which is involved in such project prior to the date on
- 6 which such assistance or permission is (or, but for paragraph
- 7 (2), would be) available. The two-year period specified in
- 8 paragraph (2) shall begin on the date such demolition, de-
- 9 struction, or damage commences.
- 10 "Subtitle D-National and World Heritage Significance;
- 11 International Activities
- 12 "LANDMARK PROGRAM
- 13 "Sec. 231. (a) The Administrator shall establish a con-
- 14 tinuing program to evaluate this Nation's historic resources
- 15 to identify and designate properties of national significance,
- 16 or properties of such significance that they may warrant in-
- 17 clusion in the world heritage list referred to in section 232.
- 18 The Administrator shall establish special advisory panels of
- 19 qualified experts in the fields of history, architecture, archeo-
- 20 logy, and related disciplines to assist in the evaluation of
- 21 properties under this section.
- 22 "(b) The survey and evaluation of historic properties
- 23 under this section shall be conducted as a thematic basis and
- 24 only those examples determined to be outstanding shall be
- 25 designated as nationally significant. Properties determined by

- 1 the Administrator to be of national significance shall be des-
- 2 ignated as 'national historic landmarks' and properties includ-
- 3 ed in the world heritage list shall be designated as 'world
- 4 heritage properties'. Whenever the Administrator determines
- 5 that a property is of national significance he shall notify the
- 6 Interior and Insular Affairs Committee of the United States
- 7 House of Representatives and the Energy and Natural Re-
- 8 sources Committee of the United States Senate thirty days
- 9 before such action becomes effective.
- 10 "(c) The Administrator shall promulgate standards and
- 11 criteria to evaluate properties for national and world heritage
- 12 significance within one hundred and eighty days after the
- 13 date on which the Administrator is initially appointed. In de-
- 14 veloping these criteria and standards the Administrator shall
- 15 consult with the Secretary of the Interior and appropriate
- 16 experts in the fields of history, architecture, archeology, and
- 17 related disciplines.
- 18 "WORLD HERITAGE CONVENTION
- 19 "Sec. 232. (a) The Administrator shall encourage and
- 20 coordinate United States participation in the Convention
- 21 Concerning the Protection of the World Cultural and Natural
- 22 Heritage, approved by the Senate on October 26, 1973, and
- 23 in other international historic preservation activities in coop-
- 24 eration with the Secretary of the Interior, the Secretary of
- 25 State, and the Smithsonian Institution. Whenever possible,

- 1 expenditures incurred in carrying out activities in cooperation
- 2 with other nations and international organizations shall be
- 3 paid for in such excess currency of the country or area where
- 4 the expense is incurred as may be available to the United
- 5 States.
- 6 "(b) The Administrator shall establish a program to
- 7 nominate historic properties to the World Heritage Commit-
- 8 tee on behalf of the United States. No such nomination may
- 9 be made by the Administrator until sixty days after notifica-
- 10 tion of the Committee on Interior and Insular Affairs of the
- 11 United States House of Representatives and the Committee
- 12 on Energy and Natural Resources of the United States
- 13 Senate of the intended action. Each such nomination shall
- 14 include evidence of adequate legal protection to ensure pres-
- 15 ervation of the property and its environment.
- 16 "INTERNATIONAL CENTRE
- 17 "Sec. 233. (a) The participation of the United States as
- 18 a member in the International Centre for the Study of the
- 19 Preservation and Restoration of Cultural Property is hereby
- 20 authorized.
- 21 "(b) The Administrator shall recommend to the Secre-
- 22 tary of State, after consultation with the Smithsonian Institu-
- 23 tion and other public and private organizations concerned
- 24 with the technical problems of preservation, the members of
- 25 the official delegation which will participate in the activities

- 1 of the Centre on behalf of the United States. The Secretary
- 2 of State shall appoint the members of the official delegation
- 3 from the persons recommended to him by the Administrator.
- 4 "(c) For the purposes of this section there are author-
- 5 ized to be appropriated such sums as may be necessary to
- 6 pay the assessment of United States membership in the
- 7 Centre for fiscal years 1979 through 1989. No appropriation
- 8 is authorized and no payment shall be made to the Centre in
- 9 excess of 25 per centum of the total annual assessment of
- 10 such organization.
- 11 "INTERNATIONAL TRAVEL
- 12 "Sec. 234. The Administrator shall establish a program
- 13 to encourage tourism by people of other nations to historic
- 14 properties in the United States which reflect the diverse
- 15 ethnic and cultural heritages of the citizens of the United
- 16 States.
 - 17 COMMENT ON INTERNATIONAL ACTIONS OF FEDERAL
 - 18 AGENCIES
 - 19 "Sec. 235. Each Federal agency which proposes any
 - 20 undertaking outside the United States which may affect a
 - 21 property which is on the world heritage list or which has
 - 22 been nominated for inclusion on such list shall notify the Ad-
 - 23 ministrator prior to commencing such undertaking and shall
 - 24 afford the Administrator forty-five days to comment on the
 - 25 proposed undertaking before commencing such undertaking.

1	"Subtitle E—Federal Agency Responsibilities
2	"PRESERVATION OFFICERS
3	"Sec. 241. (a) Under guidelines established by the Ad-
4	ministrator, each head of a Federal agency shall designate an
5	official at an appropriate level to be known as the agency's
6	'Preservation Officer'. The Preservation Officer shall be re-
7	sponsible for coordinating that agency's activities under this
8	Act. The Preservation Officer of each such agency shall, in
9	each instance where compliance with any provision of this
10	Act is required, certify such compliance for such agency.
11	Each Federal agency shall develop a system to provide for
12	the designation of officials at the field or regional level, as
13	appropriate, to assist the Preservation Officer in carrying out
14	his functions.
15	"(b) Each Preservation Officer and official designated
16	under subsection (a) at the field or regional level shall partici-
17	pate in a training program established by the Administrator
18	under section 211. Each agency shall consult with the Ad-
19	ministrator to determine the appropriate number and type of
20	certified professional staff necessary to carry out the preser-
21	vation responsibilities of the agency.
22	"AGENCY MANAGEMENT OF HISTORIC PROPERTIES
23	"Sec. 242. (a) All Federal agencies shall assume re-
24	sponsibility for the preservation, maintenance, rehabilitation,
25	renovation, adaptive use, or restoration of properties which

- 1 are included in the National Register and which are under
- 2 such agency's jurisdiction or control.
- 3 "(b) Each Federal agency having responsibility for the
- 4 management of any real property shall, to the extent practi-
- 5 cable, in carrying out such agency's responsibilities under
- 6 other provisions of Federal law, give a priority to the use of
- 7 eligible properties and properties which are in the National
- 8 Register that are under its jurisdiction or control. Each such
- 9 agency shall undertake, consistent with the preservation of
- 10 such properties and the mission of such agency, such rehabili-
- 11 tation and maintenance of such properties as may be neces-
- 12 sary to carry out this section.
- 13 "(c)(1) Within one year after the date of the enactment
- 14 of the National Historic Preservation Amendments of 1979
- 15 (or, if later, within one year after a property under the juris-
- 16 diction or control of any Federal agency is determined to be
- 17 an eligible property or is included in the National Register),
- 18 each Federal agency having jurisdiction or control over any
- 19 eligible property or property included in the National Regis-
- 20 ter shall prepare a property management plan detailing how
- 21 the agency will administer the property. Plans providing for
- 22 the preservation of the property shall be consistent with the
- 23 property management standards issued by the Administrator
- 24 pursuant to section 223. Plans that do not provide for the
- 25 preservation of the property or that may have an adverse

- 1 effect on the property shall be submitted to the Administrator
- 2 for comment in accordance with section 247.
- 3 "(2) During the preparation of such property manage-
- 4 ment plans, each Federal agency shall take appropriate steps
- 5 to stabilize eligible properties and properties which are on the
- 6 National Register in order to prevent deterioration or
- 7 damage to the property. Expenditures for such stabilization
- 8 shall not be treated as a public investment under section
- 9 101(b)(2).
- 10 "STUDY BY INTERIOR OF FEDERAL PROPERTIES
- "Sec. 243. Notwithstanding any other provision of law,
- 12 the Secretary of the Interior, acting through the National
- 13 Park Service, shall study and investigate properties included
- 14 in the National Register which are under the jurisdiction or
- 15 control of other Federal agencies and, from time to time,
- 16 may, with the concurrence of the Administrator, recommend
- 17 to the President that the administrative jurisdiction or control
- 18 of such properties be transferred to the Secretary. Any such
- 19 recommendation shall be transmitted, concurrently with its
- 20 submission to the President, to the Committee on Interior
- 21 and Insular Affairs of the United States House of Repre-
- 22 sentatives and the Committee on Energy and Natural Re-
- 23 sources of the United States Senate. One hundred and eighty
- 24 days after the submission of any such recommendation, and
- 25 with the concurrence of the Director of the Office of Manage-

- 1 ment and Budget, the head of the agency exercising adminis-
- 2 trative jurisdiction or control over the property shall transfer
- 3 to the Secretary jurisdiction over the property, together with
- 4 such funds and personnel available for the development,
- 5 maintenance, and interpretation thereof, as may be deter-
- 6 mined by the Director of the Office of Management and
- 7 Budget. Property so transferred shall be administered by the
- 8 Secretary as a unit of the National Park System in accord-
- 9 ance with the Act of August 25, 1916 (35 Stat. 535), and in
- 10 accordance with such cooperative agreements as the Secre-
- 11 tary of the Interior and the head of the transferring agency
- 12 may determine to be necessary or desirable for the continued
- 13 use, if any, of such property by the transferring agency
- 14 where such use is consistent with preservation of the histori-
- 15 cal, architectural, archeological, or cultural characteristics of
- 16 the property.
- 17 "AUTHORITY FOR INTERIOR TO ACCEPT PRESERVATION
- 18 EASEMENTS
- 19 "Sec. 244. The Secretary of the Interior is authorized,
- 20 upon the concurrence of the Administrator, to accept gifts or
- 21 donations of less than fee interests in any eligible property or
- 22 property which is included in the National Register where
- 23 the acceptance of such interests will facilitate the preserva-
- 24 tion of such property. Nothing in this section or in any provi-
- 25 sion of this Act shall be construed to affect or impair any

- 1 other authority of the Secretary of the Interior under other
- 2 provisions of law to accept or acquire any property for pres-
- 3 ervation or for any other purpose.
- 4 "AUTHORITY TO LEASE AND EXCHANGE
- 5 "Sec. 245. (a) Each Federal agency having authority
- 6 for the management of any real property may, upon the con-
- 7 currence of the Administrator, lease to any appropriate
- 8 person or organization, or exchange with any such person or
- 9 organization for other appropriate property, any land, build-
- 10 ings, and other structures managed by it which are eligible
- 11 properties or properties included in the National Register.
- 12 Any such lease shall be at such rates and under such terms
- 13 and conditions as the head of such agency deems appropriate.
- 14 The rates at which any such land, building, or other structure
- 15 is leased may be less than the fair market value of such lease
- 16 in any case in which the agency head, with the concurrence
- 17 of the Administrator, determines that the lease will adequate-
- 18 ly insure the conservation, maintenance, repair, preservation,
- 19 and protection of such property.
- 20 "(b) The proceeds of each lease of land or a building or
- 21 other structure under subsection (a) shall, notwithstanding
- 22 any other provision of law, be retained by the agency enter-
- 23 ing into such lease and used to defray the costs of administra-
- 24 tion, maintenance, repair, and related expenses incurred by
- 25 the agency with respect to such property or other eligible

- 1 properties or properties which are on the National Register
- 2 and which are under the jurisdiction or control of such
- 3 agency. Any surplus proceeds from such leases shall be de-
- 4 posited into the Treasury of the United States at the end of
- 5 the fiscal year following the fiscal year in which such pro-
- 6 ceeds were received.
- 7 "(c) The head of any Federal agency having authority
- 8 for the management of any real property may, if he deems it
- 9 appropriate, enter into contracts for the management of any
- 10 eligible property or property which is on the National Regis-
- 11 ter. Any such contract shall contain such terms and condi-
- 12 tions as the head of such agency deems necessary or appro-
- 13 priate to protect the interests of the United States.".
- 14 "COOPERATION WITH PURCHASERS AND TRANSFEREES
- 15 "Sec. 246. All Federal agencies shall cooperate with
- 16 purchasers and transferees of any eligible property or proper-
- 17 ty which is included in the National Register in the develop-
- 18 ment of plans for uses of such property that are compatible
- 19 with preservation and conservation objectives without impos-
- 20 ing unreasonable economic burdens on public or private inter-
- 21 ests.
- 22 "PROTECTION OF HISTORIC PROPERTIES
- 23 "Sec. 247. (a) The head of each Federal agency having
- 24 direct or indirect jurisdiction over a proposed Federal or fed-
- 25 erally assisted undertaking in any State and the head of each

- 1 Federal agency having authority to license any undertaking
- 2 shall, prior to the approval of the expenditure of any Federal
- 3 funds on the undertaking or prior to the issuance of any li-
- 4 cense, as the case may be, determine whether any Federal or
- 5 non-federally owned historic properties that—
- 6 "(1) may meet the criteria of significance estab-
- 7 lished by the Administrator pursuant to section 104(a),
- 8 "(2) have been included in the inventory of histor-
- 9 ic resources,
- 10 "(3) have been designated as eligible properties,
- 11 or
- 12 "(4) are included in the National Register,
- 13 are located within the areas to be directly or indirectly affect-
- 14 ed by the proposed undertaking. If the areas to be affected by
- 15 the proposed undertaking have not been surveyed in accord-
- 16 ance with the survey standards established by the Adminis-
- 17 trator pursuant to section 222, the agency head shall ensure
- 18 that a survey sufficient to locate such properties is undertak-
- 19 en at the earliest stages of planning for the undertaking.
- 20 Properties which may meet the criteria of significance shall
- 21 be evaluated jointly by the Federal agency and the appropri-
- 22 ate State historic preservation officer to determine whether
- 23 or not the resource should be included on the inventory of
- 24 historic resources and designated as an eligible property. In
- 25 the event that the agency and the State historic preservation

officer disagree, the matter shall be referred to the Administrator for a final decision within thirty days. In the case of 2 3 any property located within a State which does not have an approved program under title I, the Administrator shall make 4 the determination under this subsection respecting whether or not such property should be included in the inventory of historic resources and designated as an eligible property. "(b) After carrying out subsection (a) each agency head 8 shall— 9 10 "(1) take into account the effect of the proposed 11 undertaking on any district, site, building, structure, or object that is designated as an eligible property; 12 13 "(2) determine that no feasible or prudent alternative exists to a proposed undertaking that may ad-14 versely affect any property included in the National 15 16 Register, and develop, to the maximum extent possible. such special planning as is necessary to minimize harm 17 18 to such properties; and "(3) afford the Administrator a reasonable oppor-19 20 tunity to comment on the undertaking in accordance 21 with regulations established by the Administrator. 22 "EXEMPTIONS 23 "Sec. 248. Within one hundred and eighty days after the date of the initial appointment of the Administrator, he

shall promulgate regulations or guidelines, as appropriate,

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- 1 under which Federal programs or undertakings may be
- 2 exempted from any or all of the requirements of this Act
- 3 when such exemption is determined to be not inconsistent
- 4 with the purposes of this Act, taking into consideration the
- 5 magnitude of the exempted undertaking or program and the
- 6 likelihood of impairment of historic properties.
- 7 "FUNDS SPENT BY FEDERAL AGENCIES
- 8 "Sec. 249. (a) Notwithstanding any other provision of
- 9 law, all Federal agencies are authorized to expend appropri-
- 10 ated funds, including funds in operations and maintenance ac-
- 11 counts, for the purposes of this Act. Each Federal agency
- 12 shall include the costs of identification, evaluation, and pro-
- 13 tection activities of such agency under this Act as eligible
- 14 project costs in all undertakings of such agency or assisted by
- 15 such agency. Such eligible project costs shall also include
- 16 amounts paid by a Federal agency to any State historic pres-
- 17 ervation officer to be used by such officer in carrying out such
- 18 identification, evaluation, and protection responsibilities of
- 19 the Federal agency under this Act.
- 20 "(b) Identification of historic properties within project
- 21 areas shall be treated for purposes of any law or rule of law
- 22 as planning costs of the project and not as costs of mitigation.
- 23 "(c) The costs of identification (including surveys) and
- 24 data recovery in accordance with section 222 may be

1	charged to Federal licensees and permittees as a condition to
2	the issuance of such license or permit.
3	"(d) The Administrator is authorized to waive, in appro-
4	priate cases, the 1 per centum limitation contained in section
5	7(a) of the Act of June 27, 1960.
6	"REVIEW OF AGENCY POLICIES AND PROGRAMS
7	"Sec. 250. Each Federal agency shall provide the Ad-
, 8	ministrator a reasonable opportunity to comment on proposed
9	policies and programs that may affect historic properties and
10	the purposes of this Act at least forty-five days prior to the
11	effective date of the implementation of any such action. With
12	respect to legislative proposals, agencies shall only provide
13	the Administrator with an opportunity to comment on pro-
14	posals initiated by the agency.".
15	(d) Such Act is further amended by adding the following
16	new title at the end thereof:
17	"TITLE III—GENERAL, ADMINISTRATIVE, AND
18	MISCELLANEOUS PROVISIONS
19	"Subtitle A—General Provisions
20	"DEFINITIONS
21	"Sec. 301. As used in this Act—
22	"(1) The term 'National Register' and the term
23	'Register' mean the National Register of Historic
24	Places established under section 101.

1	"(2) The term 'Administrator' means the Admin-
2	istrator for Historic Preservation.
3	"(3) The term 'inventory of historic resources'
4	and the term 'inventory' mean the inventory estab-
5	lished under section 102.
6	"(4) The term 'eligible property' means a proper-
7	ty designated on the inventory of historic resources
8	pursuant to section 102(b) as eligible for inclusion on
9	the National Register.
10	"(5) The term 'prior authority of law' means the
11	provisions of this Act as in effect before the date of the
12	enactment of the National Historic Preservation
13	Amendments of 1979.
14	"(6) The term 'State' includes, in addition to the
15	several States of the Union, the District of Columbia,
16	the Commonwealth of Puerto Rico, the Virgin Islands,
17	Guam, American Samoa, and the Commonwealth of
18	the Northern Mariana Islands.
19	"(7) The term 'undertaking' means any Federal,
20	federally assisted or federally licensed action, activity,
21	or program or the approval, sanction, assistance, or
22	support of any non-Federal action, activity, or pro-
23	gram. Such term includes new and continuing projects
24	and program activities which are—

1	"(A) directly undertaken by Federal agen-
2	cies;
3	"(B) supported in whole or in part through
4	Federal contracts and grants, or other forms of
5	direct or indirect funding assistance (including
6	loans and loan guarantees); and
7	"(C) carried out pursuant to a Federal lease,
8	permit, license, certificate, approval, or other form
9	of entitlement or permission.
10	"(8) The term 'preservation' includes the protec-
11	tion, rehabilitation, restoration, maintenance, and re-
12	construction of districts, sites, buildings, structures, and
13	objects significant in American history, architecture,
14	archeology, or culture.
15	"(9) The term 'Federal agency' and the term
116	'agency' mean any department, agency, or instrumen-
17	tality of the United States as such terms are defined in
18	title 1 of the United States Code, except that such
19	terms include the National Historic Preservation
20	Agency only when the context so requires.
21	"(10) The term 'Indian tribe' means the govern-
22	ing body of any Indian tribe, band, nation, or other
23	group which is recognized as an Indian tribe by the
24	Secretary of the Interior or for which the United
95	States holds lands in trust or other restricted status

1	"HISTORIC PRESERVATION FUND
2	"Sec. 302. (a) To carry out the provisions of this Act,
3	there is hereby established the Historic Preservation Fund
4	(hereafter referred to as the 'fund') in the Treasury of the
5	United States. There shall be covered into such fund
6	\$150,000,000 for fiscal year 1980, and \$150,000,000 for
7	each of the fiscal years 1981 through 1989, from revenues
8	due and payable to the United States under the Outer Conti-
9	nental Shelf Lands Act (43 U.S.C. 338), under the Act of
10	June 4, 1920 (30 U.S.C. 191), or from revenues due and
11	payable to the United States under both of such Acts not-
12	withstanding any provision of law that such proceeds shall be
13	credited to miscellaneous receipts of the Treasury. Such
14	moneys shall be used only to carry out the purposes of this
15	Act and shall be available for expenditure only when appro-
16	priated by the Congress. Any moneys not appropriated shall
17	remain available in the fund until appropriated for said pur-
18	poses. Appropriations made pursuant to this paragraph may
19	be made without fiscal year limitation.
20	"(b) Not less than two-thirds of any amount appropri-
21	ated under this section shall be available only for grants to
22	States under part 2 of subtitle B of title I. Of such two-thirds
23	available for such grants—
24	"(1) 50 per centum shall be divided equally
25	among the States,

1	"(2) 20 per centum shall be divided among the
2	States on the basis of population, and
3	"(3) 30 per centum shall be divided among the
4	States on the basis of criteria established by the Ad-
5	ministrator with respect to need and performance.
6	The Administrator shall notify each State of its apportion-
7	ment under this subsection within thirty days following the
8	date of enactment of legislation appropriating funds under
9	this section. Any amount of any such apportionment which
10	has not been paid or obligated during the fiscal year for
11	which such amount was appropriated or during the succeed-
12	ing two fiscal years shall be returned by the State to the
13	Administrator and shall be reapportioned by the Administra-
14	tor, in accordance with paragraphs (1), (2), and (3) of this
15	subsection, to States other than the State returning such
16	amount.
17	"(c) Not more than one-third of the amount appropri-
18	ated under this section shall be available only for carrying
19	out the Federal program under part 3 of subtitle B of title I
20	and for the Administrator to carry out his other duties and
21	responsibilities under this Act, except that if any amount of
22	such one-third remains unexpended or unobligated after all
23	necessary expenditures have been made for purposes of car-
24	rying out such Federal program, the Administrator may use
25	such remaining amounts, without regard to fiscal year limita-

- 1 tion, to make supplemental grants to a project receiving as-
- 2 sistance under a State or local program under part 2 of sub-
- 3 title B of title I. Any such supplemental grant shall be made
- 4 only in compliance with the requirements of such subtitle,
- 5 including the 50 per centum limitation contained in section
- 6 112(a). No amount may be appropriated as provided in this
- 7 subsection for the fiscal years 1981 or 1982 if such appropri-
- 8 ation would result in the reduction in the amounts available
- 9 for grants to States under subsection (b) below the amounts
- 10 available for grants to States under prior authority of law.
- 11 "PUBLIC PARTICIPATION
- 12 "Sec. 303. The Administrator shall establish regula-
- 13 tions to insure maximum public participation in all activities
- 14 of the Administrator, the Council, and other Federal agencies
- 15 carrying out any requirement of this Act.
- 16 "RELATIONSHIP TO CERTAIN OTHER LAWS
- 17 "Sec. 304. (a) Notwithstanding any other provision of
- 18 law, grants made under this Act may not be used to satisfy
- 19 the requirements of any other provision of law requiring the
- 20 matching by State or local funds for eligibility for any other
- 21 Federal assistance.
- 22 "(b) Notwithstanding any other provision of law, no
- 23 grant made under this Act shall be treated as taxable income
- 24 for purposes of the Internal Revenue Code of 1954 or for
- 25 purposes of any State or local law imposing a tax on income.

1	"PRIVATE ATTORNEYS GENERAL
2	"Sec. 305. In any civil action brought in any United
3	States district court by any person against any Federal
4	agency to enforce the requirements of section 247 of this Act,
5	if such person substantially prevails in such action, the court
6	shall award to such person such attorney's fees, expert wit-
7	ness fees, and other costs of preparing for, and participating
8	in, such action as the court deems reasonable.
9	"PRESERVATION AWARDS PROGRAM
10	"Sec. 306. The Administrator is authorized to establish
11	an annual preservation awards program under which he
12	makes awards of up to \$10,000 to officers and employees of
13	Federal, State, and local governments in recognition of their
14	outstanding contributions to the preservation of historic
15	resources. Such program may include the issuance of an
16	annual award by the President of the United States to any
17	citizen of the United States recommended for such award by
18	the Administrator. Not later than one year after the date of
19	the initial appointment of the Administrator, he shall promul-
20	gate regulations for carrying out the awards program under
21	this paragraph.
22	"Subtitle B—Administrative Provisions
23	"DELEGATION TO STATES OF CERTAIN FUNCTIONS
24	"Sec. 321. The Administrator is authorized to delegate
25	to any State having an approved program under part 2 of

1 subtitle B of title I the authority to carry out his responsibilities under the National Environmental Policy Act of 1969 3 with respect to any activities carried out under such ap-4 proved program. 5 "TRANSFER OF AUTHORITIES 6 "Sec. 322. (a) The provisions of the following Acts which relate to historic preservation responsibilities of the Secretary of the Interior, except as they may be related to management of lands, waters, or interests therein of the National Park System or other lands, waters, or interests there-10 in, under the jurisdiction or control of the Secretary shall be 11 12 administered by the Administrator: 13 "(1) The Act entitled 'An Act to provide for the 14 preservation of historic American sites, buildings, 15 objects, and antiquities of national significance, and for 16 other purposes', approved August 21, 1935 (49 Stat. 17 666; 16 U.S.C. 461 et seq.). "(2) Section 203(k)(3) of the Federal Property and 18 19 Administrative Services Act of 1949 (40 U.S.C. 20 484(k)(3)). "(3) Section 7 of the Act entitled 'An Act to pro-21 vide for the disposition, control, and use of surplus real 22 23 property acquired by Federal agencies, and for other purposes', approved August 27, 1935 (49 Stat. 885; 24

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40 U.S.C. 304a-2).

"(4) The Act entitled 'An Act to further the 1 policy enunciated in the Historic Sites Act and to fa-2 cilitate public participation in the preservation of sites, 3 buildings, and objects of national significance or inter-4 est and providing a national trust for historic preserva-5 tion', approved October 26, 1949 (63 Stat. 927; 16 6 U.S.C. 468 et seq.). 7 "(5) The Act entitled 'An Act to provide for the 8

- "(5) The Act entitled 'An Act to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam', approved June 27, 1960 (74 Stat. 220; 16 U.S.C. 469).
- "(6) Section 2124 of the Tax Reform Act of 1976
 (90 Stat. 1916-1920).

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- 15 "(7) The provisions of section 8 (relating to the National Register of Historic Places) of the Act entitled 'An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes', approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 17d).
- "(b) So much of the personnel, property, records, unexpended balances or appropriations, allocations, and other funds held, used, programed, and available to or to be made available to any officer or employee of any department or

- 1 agency of the United States related to, or in support of, ac-
- 2 tivities transferred to the Administrator under this section, as
- 3 the Director of the Office of Management and Budget deter-
- 4 mines, shall be transferred from such to the Administrator
- 5 within one hundred and eighty days after the date of the
- 6 enactment of the Historic Preservation Amendments of
- 7 1979.
- 8 "(c) Any employee in the competitive service of the
- 9 United States transferred to the Agency under the provisions
- 10 of this section shall retain all rights, benefits, and privileges
- 11 pertaining thereto held prior to such transfer.
- 12 "POSTPONEMENT ORDERS
- "Sec. 323. (a)(1) Upon a determination by the Adminis-
- 14 trator that any action undertaken, or which may be undertak-
- 15 en, by any Federal agency, or agency or instrumentality of a
- 16 State or local government, or by any other person will ad-
- 17 versely affect any property included in the National Register,
- 18 the Administrator may issue an order requiring such person
- 19 to postpone such action for not more than sixty days follow-
- 20 ing the date of issuance of the order.
- 21 "(2) During the sixty-day period referred to in para-
- 22 graph (1), the Administrator shall endeavor to develop an
- 23 acceptable preservation plan for the property and may also
- 24 exercise the emergency acquistion authority provided under
- 25 the amendment made by section 3 of the National Historic

- 1 Preservation Amendments of 1979 with respect to the prop-
- 2 erty involved.
- 3 "(3)(A) Any person who violates an order issued under
- 4 paragraph (1) shall be assessed a civil penalty in an amount
- 5 not greater than the fair market value of the property with
- 6 respect to which such order was issued.
- 7 "(B) Any person aggrieved by assessment of a civil pen-
- 8 alty under subparagraph (A) may file a petition for judicial
- 9 review of such assessment with the United States District
- 10 Court for the District of Columbia or for any other district in
- 11 which such a person resides or transacts business. Such a
- 12 petition may only be filed within the thirty-day period begin-
- 13 ning on the date such assessment was made.
- 14 "(C) If any person fails to pay an assessment of a civil
- 15 penalty under this paragraph—
- 16 "(i) after the assessment has become final and
- such person has not filed a petition for judicial review
- in accordance with subparagraph (B), or
- 19 "(ii) after a court in an action brought under sub-
- 20 paragraph (B) has entered a final judgment upholding
- 21 the assessment of a civil penalty,
- 22 the Administrator may request the Attorney General to insti-
- 23 tute a civil action in a district court of the United States for
- 24 any district in which such person is found, resides, or trans-
- 25 acts business to collect the penalty and such court shall have

- 1 jurisdiction to hear and decide any such action. In such
- 2 action, the validity and amount of such penalty shall not be
- 3 subject to review.
- 4 "(D) Hearings held during proceedings for the assess-
- 5 ment of civil penalties authorized by this paragraph shall be
- 6 conducted in accordance with section 554 of title 5 of the
- 7 United States Code. The Administrator may issue subpenas
- 8 for the attendance and testimony of witnesses and the pro-
- 9 duction of relevant papers, books, and documents, and admin-
- 10 ister oaths. Witnesses summoned shall be paid the same fees
- 11 and mileage that are paid to witnesses in the courts of the
- 12 United States. In case of contumacy or refusal to obey a
- 13 subpena served upon any person pursuant to this paragraph,
- 14 the district court of the United States for any district in
- 15 which such person is found or resides or transacts business,
- 16 upon application by the United States and after notice to
- 17 such person, shall have jurisdiction to issue an order requir-
- 18 ing such person to appear and give testimony before the
- 19 Administrator or to appear and produce documents before the
- 20 Administrator, or both, and any failure to obey such order of
- 21 the court may be punished by such court as a contempt
- 22 thereof.
- 23 "(b) Nothing in this section shall apply to any undertak-
- 24 ing which has commenced before the date of the enactment of
- 25 the National Historic Preservation Amendments of 1979.

1	"Subtitle C-Center for the Building Arts
2	"ESTABLISHMENT OF NATIONAL HISTORIC SITE
3	"Sec. 331. In order to commemorate and encourage
4	the building arts and to preserve and maintain for public use
5	a nationally significant building which exemplifies the great
6	achievements of the building arts in the United States, the
7	Secretary of the Interior is authorized to establish the Pen-
8	sion Building in Washington, District of Columbia, as a na-
9	tional historic site to be named the "National Center for the
10	Building Arts" (hereinafter in this title referred to as the
11	"Center"). The Administrator of the General Services Ad-
12	ministration shall transfer such building, and the land on
13	which it is situated, to the jurisdiction of the Secretary of the
14	Interior promptly following the enactment of this subtitle.
15	"MANAGEMENT OF CENTER
16	"Sec. 332. (a) The Secretary shall renovate, maintain,
17	and administer the site established under section 331 in ac-
18	cordance with the provisions of this title, the Acts generally
19	applicable to units of the National Park System (including the
20	Act of August 25, 1916; 16 U.S.C.1-4).
21	"(b) The renovation, administration, and management of
22	the Center and its conservation for public use and enjoyment
23	shall be carried out by the Secretary.
24	"(c) The Secretary of the Interior, acting through the
25	National Park Service, shall provide such maintenance, secu-

1	rity, information, interpretation, janatorial and other services
2	as may be necessary to assure the preservation and operation
3	of the Center and the Secretary, acting through the National
4	Park Service, may enter into cooperative agreements with
5	the Building Arts Foundation for such purposes.
6	"(d) There are hereby authorized to be appropriated to
7	the Secretary \$15,000,000 to be used for the renovation of
8	the Center.
9	"BUILDING ARTS FOUNDATION
10	"Sec. 333. (a) There is hereby established a Building
11	Arts Foundation (hereinafter in this subtitle referred to as the
12	"Foundation") whose duty it shall be to carry out the follow-
13	ing programs:
14	" (1) collection and dissemination of information
15	concerning the building arts, including the establish-
16	ment of a national inventory of current and histori
17	documents, publications, and research relating to the
18	building arts;
19	"(2) education and training relating to the history
20	and practice of the building arts including a program

for the training and development of skilled labor in

trades and crafts relating to historic preservation; and

nent exhibits illustrating and interpreting the building

"(3) the public display of temporary and perma-

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arts.

- 1 The Foundation shall coordinate its activities under this sub-
- 2 title with other public and private organizations and individ-
- 3 uals in order to avoid, to the extent possible, the duplication
- 4 of efforts relating to the functions of the Foundation.
- 5 "(b)(1) The Foundation shall be under the direction of a
- 6 Board of Directors (hereinafter in this subtitle referred to as
- 7 the "Board").
- 8 "(2) The Board shall be composed of the Secretary of
- 9 the Interior, the Secretary of Labor, the Administrator, the
- 10 Librarian of Congress, the Secretary of Health, Education,
- 11 and Welfare, the Commissioner of Education, the Chairman
- 12 of the National Endowment of the Arts, and nine general
- 13 members who are citizens of the United States appointed by
- 14 the President from among recommendations submitted to him
- 15 by institutions and organizations (including labor unions, pro-
- 16 fessional associations, and educational institutions) having an
 - 17 interest in the activities to be carried out by the Foundation.
 - 18 The President shall appoint all general members of the Board
 - 19 within ninety days after the date of the enactment of the
 - 20 National Historic Preservation Amendments of 1979. The
 - 21 Board shall initially convene not later than ninety days after
 - 22 the expiration of the ninety-day period referred to in the pre-
 - 23 ceding sentence.
 - 24 "(3) The general members of the Board shall serve for
 - 25 terms of five years, except that the general members initially

- 1 appointed shall serve for terms of from one to five years, as
- 2 designated by the President at the time of appointment, in
- 3 such manner as to assure that not more than two of such
- 4 terms will expire in any one year. Any vacancy in the Board
- 5 shall be filled within sixty days in the same manner as the
- 6 original appointment and for the balance of the unexpired
- 7 term.
- 8 "(4) The Board shall have a Chairman and Vice Chair-
- 9 man who shall be elected from among the general members
- 10 by a majority vote of the Board to serve for a period of two
- 11 years.
- 12 "(5) The general members of the Board shall each be
- 13 entitled to receive \$100 for each day (including traveltime)
- 14 during which they are engaged in the performance of func-
- 15 tions vested in the Board. While away from their homes or
- 16 regular places of business in the performance of services for
- 17 the Board members of the Board shall be allowed travel ex-
- 18 penses, including per diem in lieu of subsistence, in the same
- 19 manner as persons employed intermittently in Government
- 20 service are allowed expenses under section 5703 of title 5 of
- 21 the United States Code.
- 22 "(6) The Board may appoint a Director who shall ap-
- 23 point such additional staff as he deems necessary. Such Di-
- 24 rector and staff shall be appointed without regard to the pro-
- 25 visions of title 5 of the United States Code, governing ap-

- 1 pointments in the competitive service, and shall be paid at
- 2 rates which may not exceed that prescribed for GS-18 of the
- 3 General Schedule established under chapter 51 and sub-
- 4 chapter III of chapter 53 of title 5 of the United States Code.
- 5 "(b) The Board may adopt such rules as it deems neces-
- 6 sary respecting the operations of the Board and the activities
- 7 to be carried out by the Board. All meetings of the Board
- 8 shall be open to the public and the Board shall provide the
- 9 maximum practicable opportunities for notice and public com-
- 10 ment concerning its activities.
- 11 "(c) The Board is authorized to solicit and accept and to
- 12 hold and administer gifts, bequests, or devises of money, se-
- 13 curities, or other property of whatever character to carry out
- 14 the purposes of the Center. Unless restricted by the terms of
- 15 the gift, bequest, or devise, the Board may sell, exchange, or
- 16 invest such gifts, bequests, or devises and the income pro-
- 17 duced therefrom shall be available for expenditure by the
- 18 Board for purposes of the Foundation. The Board is author-
- 19 ized to lease areas within the Center to governmental and
- 20 nongovernmental entities for purposes consistent with the
- 21 provisions of this Act, and the proceeds of such leases shall
- 22 be available for purposes of section 332(c).
- 23 "(d) Upon request of the Board, the head of any Federal
- 24 agency is authorized to transfer any funds or other property
- 25 to the Board or to detail, on a reimbursable or nonreimbursa-

- 1 ble basis, any of the personnel of such agency to the Board to
- 2 assist the Board in carrying out its duties under this subtitle.
- 3 "(e) For purposes of carrying out its functions under this
- 4 subtitle, the Board is authorized to enter into contracts or
- 5 cooperative agreements as appropriate with any Federal,
- 6 State, or local agency or instrumentality or with any other
- 7 appropriate organization, institution, or individual.
- 8 "(f) There is authorized to be appropriated to the Foun-
- 9 dation for use in accordance with this subtitle, amounts
- 10 which will in the aggregate equal gifts, bequests, devises of
- 11 money, securities, and other property received by the Foun-
- 12 dation, but not to exceed \$1,000,000 for any fiscal year. In
- 13 addition to such amounts, there is authorized to be appropri-
- 14 ated to the Foundation not more than \$250,000 for the fiscal
- 15 year 1981 and \$500,000 for each of the fiscal years 1982
- 16 through 1986. Amounts authorized to be expended under this
- 17 subsection shall remain available until expended for a period
- 18 of one fiscal year following the fiscal year for which appropri-
- 19 ated.
- 20 "(g) The Budget of the Foundation shall be submitted to
- 21 the Congress in conjunction with the submission of the
- 22 budget of the Historic Preservation Agency as a related
- 23 agency.

1	"DEFINITION OF BUILDING ARTS
2	"Sec. 334. For purposes of this subtitle, the term
3	'building arts' includes, but shall not be limited to, architec-
4	ture, construction, building technology and skills, landscape
5	architecture, historic architecture, building engineering,
6	urban and community design, city and regional planning and
7	related skills, trades, and crafts.
8	"AUDIT AND REPORT
9	"Sec. 335. (a) The General Accounting Office shall
10	review and audit regularly the accounts of the Foundation for
11	purposes of determining the continuing ability of the Founda-
12	tion to pay for the functions of the Center.
13	"(b) On December 31 of each calendar year which com-
14	mences after the date of the enactment of this subtitle, the
15	Foundation shall submit to the Committee on Interior and
16	Insular Affairs of the United States House of Representa-
17	tives and to the Committee on Energy and Natural Re-
18	sources of the United States Senate a report containing a
19	statement of its activities carried out pursuant to this title,
20	together with a plan of the programs which it proposes to
21	carry out during the succeeding four years.".
22	EMERGENCY ACQUISITION
23	SEC. 3. The Act of October 26, 1949 (16 U.S.C. 468
24	and following) is amended by adding the following new sec-
95	tion at the and thereof

1	"Sec. 6. (a) The Administrator of the Historic Preser-
2	vation Agency shall establish and maintain a program, in co-
3	operation with the National Trust for the emergency acquisi-
4	tion of real and personal property, or any interests therein,
5	eligible for or included in the National Register established
6	under the National Historic Preservation Act and threatened
7	with immediate demolition or impairment. When the Admin-
8	istrator determines that such acquisition is in the public inter-
9	est and will further national preservation policy as provided
10	in the National Historic Preservation Act, the Attorney Gen-
11	eral shall, if necessary, institute condemnation proceedings
12	on behalf of the National Trust, in which title will vest. Upon
13	acquisition of a property interest pursuant to this subsection,
14	the National Trust shall attempt to convey such interest to
15	any governmental or nongovernmental entity under such con-
16	ditions as will ensure the property's continued preservation
17	and use, except that if, after a reasonable time, the National
18	Trust, with the approval of the Administrator, determines
19	that there is no feasible and prudent means to transfer such
20	property and to ensure its continued preservation and use for
21	the public benefit, then the National Trust for Historic Pres-
22	ervation may convey the property at the fair market value of
23	its interest in such property to any entity without restriction.
24	"(b) In the case of any property acquired by the Nation-
25	al Trust under subsection (a), it shall be a condition of such

- 1 acquisition that any proceeds from the conveyance by the
- 2 National Trust of any interest in such property, less the
- 3 actual costs incurred by the Trust in the acquisition, develop-
- 4 ment, and sale of such interest shall be transferred by the
- 5 Trust to the Secretary of the Treasury and deposited in the
- 6 United States Treasury. Such amounts so deposited shall be
- 7 placed in a separate account established on the books and
- 8 records of the Treasury and shall be available, notwithstand-
- 9 ing any other provision of law and without fiscal year limita-
- 10 tion, for payment of obligations of the United States incurred
- 11 under subsection (a). Any excess of such proceeds over the
- 12 amount made available from grants under section 111(1)(B)
- 13 may be retained by the Trust.".
- 14 REPORT ON PRESERVATION OF INTANGIBLE ELEMENTS
- 15 Sec. 4. The Administrator of the Historic Preservation
- 16 Agency, in consultation with the American Folklife Center of
- 17 the Library of Congress and the Building Arts Foundation,
- 18 shall, within two years after the date of the enactment of this
- 19 Act, submit a report to the President and the Congress on
- 20 preserving and conserving the intangible elements of our cul-
- 21 tural heritage by inclusion of arts, skills, folklife and folk-
- 22 ways, and collections in the National Register established
- 23 under the National Historic Preservation Act of 1966. This
- 24 report shall include recommendations for legislative and ad-
- 25 ministrative action by the Federal Government to encourage

- 1 the continuation of the diverse traditional historic, ethnic, and
- 2 cultural activities that underlie our American heritage.
- 3 FUNDING REPORT
- 4 Sec. 5. The Administrator for the Historic Preservation
- 5 Agency shall submit a report directly to the President and
- 6 the Congress within eight years after the date of the enact-
- 7 ment of this Act, reviewing the operation of the Historic
- 8 Preservation Fund and the national historic preservation pro-
- 9 gram since the enactment of this Act and recommending ap-
- 10 propriate funding levels, the time period for the reauthoriza-
- 11 tion for appropriations from the fund, and other appropriate
- 12 legislative action to be undertaken upon the expiration of the
- 13 current fund authorization on September 30, 1989.
- 14 PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION
- 15 Sec. 6. (a) The Administrator for Historic Preservation
- 16 shall investigate the plans and performance of the Pennsyl-
- 17 vania Avenue Development Corporation as they relate to his-
- 18 toric preservation and, within ninety days from the date on
- 19 which the Administrator is initially appointed, submit a
- 20 report to the Congress containing the results of such study
- 21 together with the Administrator's recommendations for the
- 22 inclusion in such plans of a comprehensive historic preserva-
- 23 tion element.
- 24 (b) The areas which are subject to the Pennsylvania De-
- 25 velopment Corporation Act shall be deemed to be a historic

- 1 district for purposes of the amendments made by this Act and
- 2 for the purposes of any law of the District of Columbia and
- 3 for purposes of any other Federal, State, or local law.
- 4 REPORT ON TAX LAWS
- 5 Sec. 7. The Administrator for the Historic Preservation
- 6 Agency, in cooperation with the Secretary of the Treasury,
- 7 shall submit a report to the President and the Congress on
- 8 Federal tax laws relating to historic preservation or affecting
- 9 in any manner historic preservation. Such report shall include
- 10 recommendations respecting amendments to such laws which
- 11 would further the purposes of this Act. Such report shall be
- 12 submitted within one year after the date on which the Ad-
- 13 ministrator is initially appointed.
- 14 CULTURAL PARKS REPORT
- 15 Sec. 8. The Secretary of the Interior, in cooperation
- 16 with the Administrator, shall undertake a comprehensive
- 17 study and formulate recommendations for the creation of a
- 18 National System of Cultural Parks to provide for the preser-
- 19 vation, interpretation, development, and use by public and
- 20 private entities of the historic, architectural, archeological
- 21 and cultural resources, as well as the natural resources,
- 22 found in definable urban and settled areas throughout the
- 23 Nation. The Secretary shall submit such legislative recom-
- 24 mendations as may be necessary to establish such system

- 1 simultaneously to the President and the Congress within two
- 2 years after the enactment of this Act.

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